IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3140 OF 2005

Gaibansha Baba Dargah Trust & Ors. : Petitioners

V/s.

Jumma Masjid Trust & Ors. : Respondents

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Mr.P.B.Shah for the petitioners.

None present for the respondents.

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CORAM : S.A. BOBDE, J.

June 20, 2005.

P.C.:

1. The petitioners have challenged the order dated 15.3.2005 passed by the learned Civil Judge, Junior Division, Vasai. The petitioners who are obstructionists in possession have challenged a MSEB bill. In a dispute, they sought a bailable warrant against the Chief Engineer, MSEB, Bandra. The MSEB at Vasai has filed a report that it has been conveyed by the Bandra office that the documents summoned are with the Vasai office. It appears from the order that the report by the MSEB, Vasai, states that the documents sought by the petitioners are not with Bandra office and that this fact is conveyed to them by the Bandra office. The Court has, therefore, found it

unnecessary and fruitless to issue a warrant. There is no error on the part of the Court in declining to do so. In the circumstances of the case, it is for the petitioners to summon appropriate witness from the appropriate office and rely on other provisions in the C.P.C. for production of evidence before the Court and it is for the Court to draw such inference as may be advised, depending on the conduct of the party in giving evidence. There is no reason to interfere.

2. The petition is dismissed.

S.A. BOBDE, J.